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**TESTIMONY OF THE FAMILY LAW SECTION, HAWAII
STATE BAR ASSOCIATION, IN OPPOSITION TO
HB 2725, RELATING TO CHILD CUSTODY**

Committee on Human Services
Representative John M. Mizuno, Chair
Representative Jo Jordan, Vice Chair
Conference Room 329, State Capitol
February 2, 2012, 8:30 a.m.

Good morning Representatives:

My name is Steven L. Hartley and I am the current Chair of the Family Law Section of the Hawaii State Bar Association. I submit this written testimony on behalf of the Family Law Section.

The FLS is comprised of over one hundred attorneys who practice law in the Family Court. The majority of us handle all types of family law matters, including divorce, paternity, domestic violence and guardianship cases. As a Section, our testimony represents the views of our members.

The FLS submits this testimony in opposition to HB 2725 because it will result in significant unnecessary litigation and confusion for family court judges, attorneys and litigants. If enacted, this Bill will allow a custodial parent in a custody dispute to control the non-custodial parent's visitation rights, a power subject to significant potential abuse. As a result, this Bill will encourage custody battles between parents in an effort to "gain control" over the process instead of considering their children's best interests. This Bill would also establish an unfair presumption in favor of a custodial parent. Finally, this Bill fails to define what a "custodial parent" is. This term could potentially refer to a range of "custodial" authority, such as sole legal custody, sole physical custody, or a parent with the greater amount of overnights in a joint physical custody arrangement, among other possible definitions.

For these reasons, we oppose HB 2725.

Thank you for allowing us to submit our testimony.